

THE HON'BLE SRI JUSTICE N.V. RAMANA

-

Writ Petition No.23396 of 2003

-

Dated: 06.03.2006

Between:

M. Subba Rao, S/o M. Kotaiah, Resident of 13-12, Tullur Post and
Mandal, Guntur District.

..... PETITIONER

AND

A.P. Transco, rep. by its Chairman and Managing Director,
Vidyuthsoudha, Khairatabad, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

-

Writ Petition No.23396 of 2003

-

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in not paying the commuted portion of the pension amount due to the petitioner's brother, namely

M. Venkateswara Rao, as illegal and arbitrary and consequently to direct the respondents to release the same to the petitioner.

The petitioner states that his brother, namely

M. Venkateswara Rao while in service exercised the option to commute 1/3 of his pension and nominated his name as the person to receive the payment in the event of his death and submitted all necessary documents to the respondents. It is further stated that his brother died on 27.09.1996 i.e., 27 days after his retirement, but the respondents, having paid all other service benefits to him and to his mother vide orders dated 04.06.1999, failed to process the papers submitted by his brother and to pay the commuted portion of pension amount to him in spite of making several representations. Assailing the inaction of the respondents, the petitioner filed the present writ petition.

Respondents filed counter affidavit denying the allegations of the petitioner, *inter alia*, stating that in spite of several reminders the brother of the petitioner has not submitted his pension papers during his life time, and the petitioner himself submitted the pension and other papers in full shape consequent on the death of his brother in his letter dated 20.12.1996. Subsequently, all the eligible amounts that were due to the deceased person have been sanctioned and paid to the petitioner and to his mother by the respondents. It is further stated that the application requesting for commutation of pension should be submitted by the employee himself and the brother of the petitioner has not made any such application in the prescribed proforma during his life time, and therefore, the petitioner is not entitled to commute the pension of a deceased person and the payment of commuted value to the petitioner does not arise.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The main contention of the petitioner is that his brother, namely M. Venkateswara Rao while in service submitted an application to the respondents exercising the option to commute 1/3 of his pension, and in support of the said contention, the petitioner relied on Xerox copy of the application alleged to have been submitted by his brother to the respondents during his life time and some internal correspondence took place in between the respondent authorities. On the other hand, the respondents dispute the same. Except the Xerox copy of application alleged to have been submitted by the brother of the petitioner, and some internal correspondence that took place in between the respondent authorities, the petitioner has not

produced any other material to substantiate his contention that his brother submitted an application to the respondents for commutation of pension. The petitioner also failed to produce any acknowledgment to show that the respondents have received the application submitted by his brother. It is nowhere admitted by the respondents that the brother of the petitioner submitted an application for commutation of pension. In view of the specific denial made by the respondents and in the absence of any proof to show that the brother of the petitioner submitted an application for commutation of pension, it is not safe to rely on the Xerox copy of the application alleged to have been submitted by the brother of the petitioner and to grant relief to the petitioner.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 06.03.2006

Nsr/Ksr